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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,709	12/20/2000	Anders Heie	NC 29319	9107

7590 04/01/2004

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EXAMINER	
LEE, JOHN J	

ART UNIT	PAPER NUMBER
2684	8

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/742,709	HEIE, ANDERS	
	Examiner	Art Unit	
	JOHN J LEE	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,14-31 and 34-40* is/are rejected.

7)☒ Claim(s) *12,13,32 and 33* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's arguments with respect to claims 1 - 40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 1 - 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Merriam (US Patent number 6,408,187) in view of Osuge (US Patent number 6,195,571).

Regarding **claim 1**, Merriam discloses that a method of providing a notification of a received message in an electronic device (Fig. 1) (column 1, lines 56 – column 2, lines 51). Merriam teaches that detecting motion of the electronic device (Fig. 1) (Fig. 1, 3 and column 4, lines 1 – 35). Merriam teaches that determining a mode (selecting status (affirmative or negative)) of the electronic device (Fig. 1) upon detecting a motion of the electronic device (Fig. 1, 3, column 8, lines 45 – 63, and column 4, lines 1 – 35). Merriam teaches that executing an alert if it is determined that said mode determined (Fig. 1, 3, column 8, lines 45 – 63, and column 4, lines 1 – 35).

Merriam does not specifically disclose the limitation "executing an alert if it is determined that said mode determined in the step of determining is a sleep mode".

However, Osuge discloses the limitation "executing an alert if it is determined that said mode determined in the step of determining is a sleep mode" (Fig. 2 and column 4, lines 14 – 67, where teaches when the first period of time expires without vibration derived from the user's movement being detected (as the device is in sleep mode), call incoming and notifying controller replaces the notification using vibration with notification using sound). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Merriam system as taught by Osuge. The motivation does so would be to achieve efficient mobile informing service for users in mobile device.

Regarding **claim 2**, Merriam discloses that activating a motion sensor for monitoring the motion of the electronic device, prior to the step of detecting motion of the electronic device (Fig. 1, 3, column 8, lines 45 – 63, and column 4, lines 1 – 35).

Regarding **claim 3**, Merriam discloses that receiving, in the electronic device, the message, prior to the step of activating a motion sensor (Fig. 1, 3, column 8, lines 45 – 63, and column 4, lines 1 – 35).

Regarding **claim 4**, Merriam discloses that determining the mode of the electronic device, after the step of receiving the message (Fig. 1, 3, column 8, lines 45 – 63, and column 1, lines 56 – column 2, lines 51).

Regarding **claim 5**, Merriam and Osuge disclose all the limitation, as discussed in claim 1. Furthermore, Merriam further discloses that executing an first alert if determined that the mobile terminal is in the first mode, after the step of determining the mode of the

electronic device and prior to the step of activating said motion sensor (column 5, lines 4 – 52 and Fig. 2, 3).

Regarding **claim 6**, Merriam discloses that executing the first alert comprises a step of executing a standard alert selected by the user of the electronic device (column 5, lines 4 – 52 and Fig. 2, 3).

Regarding **claims 7 and 9**, Merriam discloses that executing a standard alert comprises a step of executing a vibrate type alert and a visual type alert (column 5, lines 4 – 52 and Fig. 2, 3).

Regarding **claim 8**, Merriam discloses that executing a standard alert comprises a step of executing an audible type alert (column 5, lines 4 – 52 and Fig. 2, 3).

Regarding **claim 10**, Merriam and Osuge disclose all the limitation, as discussed in claim 1. Furthermore, Merriam further discloses that executing a second alert, if determined that the electronic device is in the second mode, after the step of determining the mode of the electronic device and prior to the step of activating said motion sensor (column 5, lines 4 – 52, Fig. 2, 3, and column 8, lines 45 – 63).

Regarding **claim 11**, Merriam discloses that selecting said second alert from said list of alerts, prior to executing said second alert (column 5, lines 4 – 52, Fig. 2, 3, and column 8, lines 45 – 63).

Regarding **claim 14**, Merriam and Osuge disclose all the limitation, as discussed in claim 1. Furthermore, Merriam further discloses that setting the mode of the electronic, prior to the step of determining if the electronic device is set to said first mode or said second mode (Fig. 2, 3 and column 5, lines 4 – 52).

Regarding **claim 15**, Merriam discloses that executing said alert comprises a step of executing a set of alerts (Fig. 2, 3 and column 5, lines 4 – 52).

Regarding **claim 16**, Merriam discloses that executing said set of alerts comprises a step of executing a plurality of same type alerts (Fig. 2, 3 and column 5, lines 4 – 52).

Regarding **claim 17**, Merriam does not specifically disclose the limitation "executing each said same type alert with varying strength and duration". However, Osuge discloses the limitation "executing each said same type alert with varying strength and duration" (column 5, lines 66 – column 6, lines 64 and Fig. 6, 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Merriam system as taught by Osuge. The motivation does so would be to enhance mobile notification service for users in mobile device.

Regarding **claims 18-20**, Merriam discloses that executing a plurality of audible type alerts, visual type alerts, and vibrate type alerts (Fig. 2, 3, column 1, lines 56 – column 2, lines 51, and column 5, lines 4 – 52).

Regarding **claim 21**, Merriam and Osuge disclose all the limitation, as discussed in claim 1. Furthermore, Merriam further discloses that a processor (104 in Fig. 1) coupled the motion sensor (112 in Fig. 1) (Fig. 1 and column 3, lines 8 – 60).

Regarding **claim 22**, Merriam and Osuge disclose all the limitation, as discussed in claims 2 and 21.

Regarding **claim 23**, Merriam and Osuge disclose all the limitation, as discussed in claims 3 and 21.

Regarding **claim 24**, Merriam and Osuge disclose all the limitation, as discussed in claims 4 and 21.

Regarding **claim 25**, Merriam and Osuge disclose all the limitation, as discussed in claims 5 and 21.

Regarding **claim 26**, Merriam and Osuge disclose all the limitation, as discussed in claims 6 and 21.

Regarding **claim 27**, Merriam and Osuge disclose all the limitation, as discussed in claims 7 and 21.

Regarding **claim 28**, Merriam and Osuge disclose all the limitation, as discussed in claims 8 and 21.

Regarding **claim 29**, Merriam and Osuge disclose all the limitation, as discussed in claims 9 and 21.

Regarding **claim 30**, Merriam and Osuge disclose all the limitation, as discussed in claims 10 and 21.

Regarding **claim 31**, Merriam and Osuge disclose all the limitation, as discussed in claims 11 and 21.

Regarding **claim 34**, Merriam and Osuge disclose all the limitation, as discussed in claims 14 and 21.

Regarding **claim 35**, Merriam and Osuge disclose all the limitation, as discussed in claims 15 and 21.

Regarding **claim 36**, Merriam and Osuge disclose all the limitation, as discussed in claims 16 and 21.

Regarding **claim 37**, Merriam and Osuge disclose all the limitation, as discussed in claims 17 and 21.

Regarding **claim 38**, Merriam and Osuge disclose all the limitation, as discussed in claims 18 and 21.

Regarding **claim 39**, Merriam and Osuge disclose all the limitation, as discussed in claims 19 and 21.

Regarding **claim 40**, Merriam and Osuge disclose all the limitation, as discussed in claims 20 and 21.

Allowable Subject Matter

4. Claims 12, 13, 32, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to disclose "selecting said second alert from said list of alerts comprises a step of selecting an efficient alert that consumes the least amount of battery power" as specified in the claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cannon et al. (US Patent number 6,549,792) discloses Accelerometer Influenced Communication Device.

Ulveland (US Patent number 6,215,993) discloses Caller Preview for Mobile Telephones.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(703) 306-5936**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on **(703) 308-7745**. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L
March 29, 2004

John J Lee

Primary NICK CORSARO PATENT EXAMINER